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B&G FOODS NORTH AMERICA, INC.

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

B&G FOODS NORTH AMERICA, INC.,  
Plaintiff,  
v.  
KIM EMBRY and ENVIRONMENTAL  
HEALTH ADVOCATES, INC., acting as  
enforcement representatives under California  
Proposition 65 on behalf of the State of  
California,  
Defendants.

Case No. 2:20-cv-00526-KJM-DB

**B&G FOODS NORTH AMERICA,  
INC.'S OPPOSITION TO  
DEFENDANTS KIM EMBRY AND  
ENVIRONMENTAL HEALTH  
ADVOCATES, INC.'S MOTION FOR  
ADMINISTRATIVE RELIEF FOR AN  
ORDER PERMITTING LEAVE TO  
FILE MEMORANDUM OF POINTS  
AND AUTHORITIES IN SUPPORT OF  
MOTION FOR SUMMARY  
JUDGMENT EXCEEDING 20 PAGES**

Judge: Hon. Kimberly J. Mueller  
Courtroom: 3

SAC Filed: November 23, 2022  
Trial Date: None Set

## **OPPOSITION**

2 Defendants' motion to exceed the page limit on their motion for summary judgment should  
3 be denied. They have not proven any type of exceptional circumstance that would justify  
4 consuming judicial and party resources in this manner. To the contrary, this case is relatively  
5 simple—it arises from Defendants filing sham Prop 65 acrylamide lawsuits in which they  
6 intentionally spoliated evidence, doctored the samples they submitted to labs, and made allegations  
7 knowing that they had no chance of success. Defendants' request to exceed the page limit is  
8 especially unwarranted because they are moving for summary judgment while at the same time  
9 withholding critical evidence in violation of their discovery obligations. The existing discovery  
10 issues need to be decided before Defendants could ever seek such relief.

11 As the Court explained in its Standing Orders, “[o]nly in rare instances and for good cause  
12 will the court grant an application to extend page limitations.” (Dkt. 3-1 at 3.) Defendants do not  
13 explain why they need to file a longer brief than a defendant in an antitrust case, a patent case or a  
14 CERCLA case, for example. Nor have Defendants identified any complex legal issues or  
15 substantial factual developments that would warrant an extended brief. They have already filed  
16 numerous motions, including iterative motions to dismiss, which the Court denied. They have  
17 ample room to present whatever remaining theories they think would somehow extenuate their  
18 conduct within the standard page limit.

19 Accordingly, Defendants' request for an enlarged brief should be denied.

21 | Dated: July 8, 2024

Respectfully Submitted,

## BRAUNHAGEY & BORDEN LLP

By: \_\_\_\_\_

*Attorneys for Plaintiff  
B&G Foods North America, Inc.*